

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

MAY 2 2007

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY BS DEPUTY

KIMBELA K. Langley,)
Plaintiff,)
vs.) No. CIV-04-1420-W
MICHAEL J. ASTRUE,¹)
Commissioner of the Social Security)
Administration,)
Defendant.)

ORDER

On April 9, 2007, United States Magistrate Judge Doyle W. Argo issued a Report and Recommendation in this matter and recommended that the Court grant the Motion for an Award of Attorney Fees filed by counsel for plaintiff Kimbelia K. Langley and award counsel, Steve A. Troutman, certain legal fees under the Social Security Act, 42 U.S.C. § 406(b). No objection has been filed to the Report and Recommendation by either Langley or the defendant, Michael J. Astrue, Commissioner of the Social Security Administration.

Upon review of the record and in the absence of any objection, the Court concurs with Magistrate Judge Argo's findings and recommendations and finds that Troutman, as Langley's court attorney, is entitled to an award of fees under section 406(b) and that the amount requested under the contingent fee contract is reasonable under the circumstances and authorized by law.

¹Michael J. Astrue became Commissioner of the Social Security Administration on February 12, 2007. Pursuant to Rule 25(d), F.R.Civ.P., he is hereby substituted as defendant in this matter for Jo Anne B. Barnhart.

Accordingly, the Court

- (1) ADOPTS the Report and Recommendation issued on April 9, 2007;
- (2) GRANTS the Motion for an Award of Attorney Fees filed on December 7, 2006;
- (3) pursuant to section 406(b), AWARDS Steve A. Troutman an amount not to exceed \$7852.00 for the representation he provided Langley in these judicial proceedings; and
- (4) ORDERS that upon payment of any fees under section 406(b), Troutman shall refund to Langley the smaller of the award under section 406(b) and any amount previously awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412(d)² in accordance with Weakley v. Bowen, 803 F.2d 575 (10th Cir. 1986)(to prevent double payment of fees for same work under both statutes, smaller amount given to client).

ENTERED this 24 day of May, 2007.



LEE R. WEST
UNITED STATES DISTRICT JUDGE

²On December 22, 2005, Langley was awarded legal and paralegal fees in the amount of \$6136.50 under the Equal Access of Justice Act, 28 U.S.C. § 2412(d).